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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,589	11/22/2002	Hans Zschintzsch	50029-00001	8347
7590	09/29/2004			
Kenneth J Johnson Marsh Fischmann & Breyfogle Suite 411 3151 South Vaughn Way Aurora, CO 80014			EXAMINER RAMOS FELICIANO, ELISEO	
			ART UNIT 2681	PAPER NUMBER
DATE MAILED: 09/29/2004				12

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/018,589	ZSCHINTZSCH, HANS
	<b>Examiner</b>	<b>Art Unit</b>
	Eliseo Ramos-Feliciano	2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 22 November 2002.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4 and 7-9 is/are rejected.

7)  Claim(s) 5,6,10 and 11 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 12 March 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### *Claim Objections*

1. **Claims 5, 6, 10, and 11** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.

See MPEP § 608.01(n). Accordingly, the *claims 5, 6, 10, and 11* have not been further treated on the merits.

2. **Claims 1-4** are objected to because of the following informalities: method claims should be written in active form including steps for performing a function. The following are some exemplary suggestions of how the claims can be rewritten:

claim 1, lines 6-7: instead of “the point-to-point” short messages are accepted”, rewrite as --accepting the point-to-point short messages--,

claim 1, lines 10-11: instead of “the messages are forwarded to the cell broadcast center”, rewrite as --forwarding the messages to the cell broadcast center--,

similar changes for the rest of the claims are suggested.

Appropriate correction is required.

3. **Claims 1-4 and 7-9** are objected to because of the following informalities: they recite “characterized by the fact that” (see claim 1, line 6; claims 2-4, first line; claim 7, line 6; and claims 8-9, first line) which is suggested to be replaced by --wherein-- or --comprises--, for improved clarity and precision of the language used. Appropriate correction is required.

4. **Claim 1** is objected to under 37 CFR 1.75(d)(1) because of the following: in line 9 the claim recites “authentication and/or filtering and/or selection of the subscribers” which does not find clear support or antecedent basis in the description. Appropriate correction is required.

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5. **Claim 2** is objected to because of the following informalities: in line 2 the claim recites “such as” which is suggested to be deleted from the claim in order to improve clarity and precision of the language used. Appropriate correction is required.

6. **Claim 3** is objected to under 37 CFR 1.75(d)(1) because of the following: in line 2 the claim recites “given by the subscriber and/or network provider” which does not find clear support or antecedent basis in the description. Appropriate correction is required.

***Specification***

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 1, line 9, recites “authentication and/or filtering and/or selection of the subscribers”. However, the specification provides no adequate support or proper antecedent basis for the recited limitation; at least not for *authentication and filtering and selection of the subscribers*.

Claim 3, line 2, recites “given by the subscriber and/or network provider”; However, the specification provides no adequate support or proper antecedent basis for the recited limitation; at least not for *given by the subscriber and network provider*.

***Remark***

8. As to 37 CFR 1.75(d)(1) and MPEP § 608.01(o), the limitation “A and/or B” is understood to mean “A” or “B” or both (“A and B”).

9. For examination on the merits the limitation “A and/or B” is considered to be met by the prior art as long as the prior art at least meets either “A” or “B” or both (“A and B”).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1-3 and 7-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee et al. (US Patent Number 6,289,223).

Regarding **claim 1**, Mukherjee et al. discloses a process of allowing direct access for individual subscribers to a cellular phone network (Figure 1) with existing cell broadcast services (column 2, lines 1-4, 10-13 & 32-36; column 1, line 48; title),

whereby the cellular phones (12) of the subscribers (users) are equipped to exchange point-to-point short messages (column 2, line 45; column 3, line 65; column 4, line 60) with a short-message center (SMS-IWMSC 16) over the cellular phone network (10 - Figure 1), (see column 3, lines 5-14)

whereby short messages declared cell broadcast messages (“an originating mobile unit may then transmit an SMS message to a plurality of destination units by transmitting an SMS message addressed to a predefined usergroup MSISDN” – abstract; column 2, lines 10-21 & 24-26; column 4, lines 3-6; column 7, lines 4-6) are forwarded to a cell broadcast center (SMS-GMSC 20), (see column 3, lines 15-20)

characterized by the fact that the point-to-point short messages are accepted from a coupling instance (SC 18) connected to the short-message center (SMS-IWMSC 16); (see column 3, lines 14-16)

the necessary tests (determines destination / subscriber status), adjustments (parses the messages) and conversions (deciphers the messages) of the messages are done in the coupling instance (SC 18); an authentication (origination authentication) and/or filtering (compare / select multipoint usergroup) and/or selection (selects usergroup / selectively transmits the message to the subscribers) of the subscribers takes place; (see column 3, lines 20-25; column 4, line 59 to column 5, line 5) and

the messages are forwarded to the cell broadcast center (SMS-GMSC 20) by means of a process that applies to the cell broadcast center (see column 3, lines 17-20). (Forwarding, as taught by Mukherjee et al., is in fact a process. Thus the limitation "by means of a process that applies to the cell broadcast center" is inherent, since such process is needed for the system to operate, and it has to be applicable to the cell broadcast center because it is the one receiving the forwarded messages).

However, Mukherjee et al. fails particularly disclose that the network is a *digital* cellular phone network, as claimed.

In the background of the invention, Mukherjee et al. teaches several different digital-based telecommunications systems, such as GSM and PCS, that provide non-speech services to mobile subscribers, such as short message services (see column 1, lines 30-40). Consequently, Mukherjee et al. suggests to apply their improved SMS service in a digital cellular phone network, such as GSM.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement Mukherjee et al.'s short message method in a digital

cellular phone network because digital-based standards, like GSM, are widely used; hence, an increased number of users can benefit from the service.

Regarding **claim 2**, Mukherjee et al. discloses everything claimed as applied above (see *claim 1*). In addition, Mukherjee et al. discloses that the process is further characterized by the fact that the parameters (group identifier or usergroup MSISDN) necessary for using cell broadcast, such as giving the area into which the broadcast message is to be beamed, are given by the subscriber (user) in the point-to-point short message (the user enters the group identifier when initiating the SMS transmission – column 2, lines 13-21 & 24-27; column 3, lines 55-56).

Regarding **claim 3**, Mukherjee et al. discloses everything claimed as applied above (see *claim 1*). In addition, Mukherjee et al. discloses that the process is further characterized by the fact that the parameters necessary for using cell broadcast are set and given by the subscriber (user) and/or network provider beforehand (prior arrangements – column 4, lines 49-53) and are added to the broadcast message by the coupling instance (SC 18) (column 3, lines 20-25; column 4, line 67 to column 5, line 2).

Regarding **claim 7**, Mukherjee et al. discloses a device for allowing direct access for individual subscribers to a cellular phone network (Figure 1) with existing cell broadcast services (column 2, lines 1-4, 10-13 & 32-36; column 1, line 48; title),

whereby the cellular phones (12) of the subscribers (users) are equipped to exchange point-to-point short messages (column 2, line 45; column 3, line 65; column 4, line 60) with a short-message center (SMS-IWMSC 16) over the cellular phone network (10 - Figure 1), (see column 3, lines 5-14)

whereby short messages declared cell broadcast messages ("an originating mobile unit may then transmit an SMS message to a plurality of destination units by transmitting an SMS message addressed to a predefined usergroup MSISDN" – abstract; column 2, lines 10-21 & 24-26; column 4, lines 3-6; column 7, lines 4-6) are forwarded to a cell broadcast center (SMS-GMSC 20), (see column 3, lines 15-20) characterized by the fact that:

a coupling instance (SC 18) connected to the short message center (SMS-IWMSC 16) is provided (see Figure 1), which accepts (column 3, lines 14-16) point-to-point short messages (column 2, line 45; column 3, line 65; column 4, line 60);

by the fact that in the coupling instance (SC 18) means of doing (inherent) the necessary tests (for determining destination and subscriber status), adjustments (for parsing the messages) and conversions (for deciphering the messages) of the messages and an authentication component (for determining origination authentication) and/or filter component (for comparing and selecting multipoint usergroup) are provided (see column 3, lines 20-25; column 4, line 59 to column 5, line 5) ("means of doing" and "component" are inherent from the respective explained functions); and

by the fact that the coupling instance (SC 18) is connected to the cell broadcast center (SMS-GMSC 20) to which the processed messages are forwarded (see column 3, lines 17-20).

However, Mukherjee et al. fails particularly disclose that the network is a *digital* cellular phone network, as claimed.

In the background of the invention, Mukherjee et al. teaches several different digital-based telecommunications systems, such as GSM and PCS, that provide non-speech services to mobile subscribers, such as short message services (see column 1, lines 30-40). Consequently,

Mukherjee et al. suggests to apply their improved SMS service in a digital cellular phone network, such as GSM.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement Mukherjee et al.'s short message method in a digital cellular phone network because digital-based standards, like GSM, are widely used; hence, an increased number of users can benefit from the service.

Regarding **claim 8**, Mukherjee et al. discloses everything claimed as applied above (see *claim 7*). In addition, Mukherjee et al. discloses that the point-to-point short messages contain parameters (group identifier or usergroup MSISDN) for defining the broadcast area (see column 2, lines 13-21 & 24-27; column 3, lines 55-56) and, if necessary, other parameters (for example, origination related data, etc. – column 3, lines 21-24).

12. **Claims 4/1, 4/2/1, and 4/3/1** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee et al. (US Patent Number 6,289,223) in view of Sikand et al. (US Patent Number 5,515,421).

Regarding **claims 4/1, 4/2/1, and 4/3/1**, Mukherjee et al. discloses everything claimed as applied above (see *claims 1-3*). However, Mukherjee et al. fails to specifically disclose that the area to which the broadcast message applies is determined by giving the dialing prefix, the postal code or the vehicle license number, as claimed.

Sikand et al. discloses a message broadcasting method wherein callers (area to which the broadcast message applies) are identified according to a one or more common defined characteristics, such as, area code (dialing prefix), zip code (postal code), or any other caller characteristics or codes (for example, vehicle license number) (see column 1, lines 50-54 & 61-

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67). For example, if the broadcast message is local weather the caller identification would be the zip code (postal code) (column 2, lines 1-3, and column 3, lines 1-5).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine the area to which the broadcast message applies by using a dialing prefix, a postal code or a vehicle license number, because the information can be, for example, geographically dependent, such as local weather, in which case the information is pertinent for a particular zip code group, as taught by Sikand et al.

13. **Claims 9/7 and 9/8/7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee et al. (US Patent Number 6,289,223) in view of Vedel (US Patent Number 5,974,308).

Regarding **claims 9/7 and 9/8/7**, Mukherjee et al. discloses everything claimed as applied above (see *claims 7-8*). However, Mukherjee et al. fails to specifically disclose an accounting instance provided in the coupling instance, as claimed.

Vedel discloses message broadcasting apparatus wherein accounting instance provided for the purpose of informing users a rate of charge (see abstract; column 3, lines 15-35 of Vedel). Since the coupling instance (SC 18 of Mukherjee et al.) performs most of the short-message service processing (column 3, lines 20-24; column 4, lines 53 and 67 to column 5, line 10, *inter alia*, of Mukherjee et al.), it would have been obvious to also perform the needed accounting process since its location is not critical, as it can be seen from Vedel.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide Mukherjee et al.'s device with an accounting instance provided in the coupling instance, because, first, it is needed for the purpose of selling the

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broadcast services, and, second, it can be used to inform users a rate of charge, as taught by Vedel.

### ***Conclusion***

14. Any inquiry concerning this communication from the examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is 703-305-0078. The examiner can normally be reached from 8:00 a.m. to 5:30 p.m. on 5-4/9 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth, can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ERF/erf  
September 27, 2004.

  
9-27-04  
**ELISEO RAMOS-FELICIANO**  
**PATENT EXAMINER**